
AGENDA ITEM NO. 6

MINUTES
FEBRUARY 18, 2015



EXECUTIVE COMMITTEE MINUTES

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1.

CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Executive Committee was called to order by Chairman John Tavaglione at 12:03 p.m., Wednesday, February 18, 2015, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2.

ROLL CALL

COMMITTEE MEMBERS PRESENT

Maryann Edwards
Natasha Johnson*
Scott Miller
Eugene Montanez*
John Tavaglione
Ella Zanowic

COMMITTEE MEMBERS ABSENT

Ben Benoit

**Arrived after start of the meeting.*

3.

PUBLIC COMMENTS

There were no public comments.

4.

COMMITTEE MEMBER ANNOUNCEMENTS

There were no Committee Member announcements.

5.

ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6.

APPROVAL OF MINUTES – January 21, 2015

M/S/C (MILLER/EDWARDS) to approve the minutes of the January 18, 2015 meeting of the Executive Committee.

(4 Ayes)

At this time Natasha Johnson joined the meeting.

7. PRESENTATION REGARDING WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) FEE COLLECTION, REMITTANCE, AND EXEMPTIONS

Honey Bernas, Director of Administrative Services stated that the fee presentation was revised as directed by the Executive Committee and staff is seeking the Executive Committee's feedback and recommendations before being presented to the RCA Board. The first section of the presentation references Sections of the MSHCP, Implementing Agreement and Joint Powers Agreement which outline the Member Agencies' requirements to collect and remit fees to RCA. On November 1, 2004, the RCA Board adopted Resolution 04-09 that established the fee collection and remittance policy. A few years into implementation, RCA realized it needed to revise its Fee Collection and Remittance policy to provide more clarity to Member Agencies the Member Agencies' obligations regarding fee payment for infrastructure and civic projects. On September 7, 2007, the RCA Board adopted Resolution 07-04 revising its Fee Collection and Remittance Policy. The policy provided a waiver of interest for delinquent fees remitted prior to January 1, 2008. She then reviewed the Member Agencies' reporting and remittance requirements and fees and civic and infrastructure projects.

Section 10 of the Model Ordinance contains and RCA recognizes six exemptions. The model ordinance does not contain an exemption for Development Agreements; however, RCA recognizes Development Agreements that were in existence prior to June 22, 2004.

The MSHCP allows for incentives, including fee credits and exemptions. Under the HANS process, when land is needed for reserve assembly, the MSHCP allows for incentives, including fee credits and exemptions. Honey Bernas reviewed Resolution No. 05-05, the resolution establishing a policy for voluntary RCA review of fee credit agreements, the timing for transfer of conservation lands and monthly accounting requirements.

John Tavaglione reiterated the requirement that each member is to submit a monthly report and asked if that was necessary. Honey Bernas responded that monthly reporting is necessary.

Honey Bernas advised the Executive Committee that Member Agencies are doing a great job with fee collections and remittance; however, there are issues with MSHCP Fee Credit and Development Agreements. MSHCP Fee Credit Agreements should be in exchange for land that contributes to reserve assembly. If MSHCP fees are being exchanged, then RCA should receive something in return for the fees.

Charlie Landry, Executive Director, stated that in some cases the land received as a result of the fee credit agreement doesn't count as part of the 153,000. RCA does not have approval authority over the agreements and the member agencies just report.

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Honey Bernas stated that a Member Agency may enter into a fee credit agreement for conservation land, but the conservation land doesn't count toward reserve assembly so RCA does not benefit. There appears to some confusion as sometimes the Member Agency believes since they accepted the land, it can be turned over to RCA for management.

Charlie Landry stated that RCA would only accept and manage the land if it counts toward the 153 acres required for reserve assembly.

Honey Bernas advised that another area of concern is development agreements. Some development agreements have either been entered into or extended after 2004, and some member agencies are not collecting fees on those agreements. RCA staff is working with member agencies to resolve those issues. RCA recently became aware of additional development agreements.

Staff believes that it would benefit both the Member Agencies and RCA staff if development fee policies which reinforce that new development agreements and extensions of development agreements are not permitted, similar to the TUMF program. In addition, a policy stating that fee credit agreements should only be entered into in exchange for Additional Reserve Land subject to RCA approval may be helpful. The RCA Board could have approval authority or delegate that authority to RCA staff, with a caveat that if RCA staff disagreed with the fee credit, then the matter would be elevated to the RCA Board for a decision.

The Chairman asked if there were a few select members who have development agreements. Honey Bernas advised that there are several members who have are exempting fees under development agreements and RCA is becoming aware of additional agreements.

Maryann Edwards, using Temecula as an example, stated that Temecula may say projects are exempt, and RCA would disagree. She said because it is not spelled out in the policy it is not black and white.

Steve DeBaun, legal counsel for RCA, stated the ordinances do not provide exemption for development agreements at all. Only in the resolution does it say that the development agreement's prior to 2004 are exempted. It's clear that there are no exemptions for development agreements post 2004, or any extension.

Charlie Landry commented there are issues that revolve around pre-2004 agreements that are being extended and a few new ones.

Honey Bernas stated that Member Agencies try to do the right thing. If RCA develops clear cut policies as to whether RCA is going to allow these exemptions, or if it's going to be up to the Member Agencies.

Charlie Landry stated that RCA is living in grey area, where there are differences in interpretation with numerous permittees. Maryann Edwards asked if it was due to ambiguous language on RCA's part. Steve DeBaun stated that language is not

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ambiguous, but he does support anything to clarify and emphasize the policies. Training is also a great idea.

John Tavaglione recalled that when the Plan was created there was a lot of discussion regarding developments that were in process and development agreements that were in place and there was a cutoff date. He does not understand why there is any argument about these issues. He stated that this item will be presented to the Board on March 2, and the RAND Study will also be discussed.

Maryann Edwards asked what alternatives RCA has regarding the fee collections and if there an enforcement issue. Charlie Landry stated that the ordinance does not spell everything out. Maryann Edwards asked if RCA lacks the teeth to carry out the resolution.

Steve DeBaun explained that the ordinance provides the mechanism to charge interest. He explained that if a city is not paying their fees, they owe it and RCA can bring legal action, which he is not suggesting. RCA has been in litigation regarding MSHCP fees. There are potential remedies, but they are not pleasant remedies and are not being recommended. It would be very helpful if RCA reviewed Fee Credit Agreements before they are entered into and could avoid some of the issues.

John Tavaglione stated that with the new members, RCA needs to provide education as to why this program is in place, which is why the RAND study will be presented. He suggested that Anne Mayer from Riverside County Transportation Commission be present to explain what kind of benefit they derive from this program. The RCA has no enforcement mechanism other than pulling their Measure A or litigation. This program needs to be taken seriously. RCA needs this money to assemble the reserve so that infrastructure can be built.

Maryann Edwards stated that we don't have anything other than the nuclear option at this point, to sue or pull Measure A.

Scott Miller stated that it interesting that representatives have been around for a long time that should know these processes and asking these questions now regarding when a Member City wants to extend something and internally they have their own processes, do they know what to look to that tells them the step by step very clear message of what is and what is not allowed. RCA needs to provide clear guidance and policies to its Member Agencies.

Honey Bernas commented that it would assist RCA staff if RCA had clear cut policies which Member Agencies can refer to.

John Tavaglione advised that RCA is not saying don't extend the development agreement, but don't extend it to exempt payment of fees. Now that development is picking up, there will be pressure to extend these agreements. That is why RCA needs clear cut, serious consequences.

M/S/C (MILLER/EDWARDS) for the RCA Executive Committee to:

- 1) Provide staff direction concerning presentation to the RCA Board of Directors; and
- 2) Authorize staff to agendize this matter for the March 2, 2015 meeting of the RCA Board of Directors.

(5 Ayes)

At this time Eugene Montanez joined the meeting.

8. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT FOR JANUARY 2015

Honey Bernas, Director of Administrative Services reported for the month of January 2015 RCA received \$591,987 in MSHCP Development Mitigation Fees from Member Agencies. Fees were collected for 144 residential units and 47.98 acres of commercial/industrial development. Staff is projecting \$8.4 million in development fee revenue by year end. The RCA budget was \$8.3 million. Total exemptions were for 54 residential units or \$104,652. 41. The City of Lake Elsinore reported 41 units, and the City of Calimesa reported 13 units.

M/S/C (EDWARDS/JOHNSON) for the RCA Executive Committee to:

- 1) Recommend that the RCA Board of Directors receive and file the Western Riverside County MSHCP LDMF and Civic/Infrastructure Contribution Report for January 2015; and
- 2) Authorize staff to agendize this matter for the March 2, 2015 meeting of the RCA Board of Directors.

(6 Ayes)

9. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) ANNUAL CPI ADJUSTMENT

Honey Bernas, Director of Administrative Services commented that RCA's current fees were established, effective in fiscal year 2009. The RCA Board has elected not increase fees for the last six years. Staff is recommending that RCA adopt CPI increase this year, which is 0.726%. Staff estimates this will generate approximately \$71,000 in additional development mitigation fees for Fiscal Year 2016.

M/S/C (EDWARDS/ZANOWIC) for the RCA Executive Committee to:

- 1) Recommend that the RCA Board of Directors approve implementing the CPI adjustment for Western Riverside County MSHCP Local Development Mitigation Fees, effective July 1, 2015; and
- 2) Authorize staff to agendize this matter for the March 2, 2015 meeting of the RCA Board of Directors.

(6 Ayes)

10. FISCAL YEAR 2015 SECOND QUARTER FINANCIAL REPORT

Honey Bernas, Director of Administrative Services gave an overview of the Second Quarter Financial Report and advised that a budget adjustment is necessary. As of December 31, 2014, the RCA cash balance of \$29.8 million represents a \$1.5 million increase over the last fiscal year. Cash receipts were \$11.9 million, Cash disbursements were \$10.5 million and the cash balance as of February 17, 2015 was \$26.9 million. RCA has an additional \$3.8 million set aside for the endowment. In Operations, revenue of \$2.4 million exceeded expenditures of \$165,000 by \$2.2 million. RCA received revenue for two Participating Special Entity Certificates of Inclusion from Southern California Edison. In Management and Monitoring, revenues of \$1.5 million exceeded expenditures of \$1.2 million by \$287,000. Second quarter tipping fees came in higher than budget. Staff is projecting a positive year end net operating position in both Operations and Management and Monitoring. In the Land Acquisition Program, expenditures of \$10.2 million exceeded revenues of \$9.1 million. The budget included a \$3.2 million draw on fund balance. Staff anticipates the draw will be \$2.7 million. Staff is requesting budget adjustments of \$6.7 million in revenue and expenditures in the Land Acquisition Program, as State and Federal grant funded acquisitions will not close this fiscal year. The acquisitions will be included in next year's budget. Nine thousand dollars of the budget adjustment is interest for notes payable. The interest rate on RCA's loan from the County was lower than budgeted. In addition, staff is proposing an increase of \$20,000 to estimated revenues and appropriations for the Management and Monitoring Program. RCA and a developer entered into a Funding and Right of Entry Agreement in the amount of \$19,998. The funds are to be used by RCA to relocate burrowing owls from the San Jacinto area to the Hidden Valley Wildlife Area. The RCA engaged the professional services of Kidd Biological, Inc., to provide the relocation services. The Parks District will provide on-site management and monitoring of the burrowing owls for the additional \$5,904.

Eugene Montanez asked about the grant funding acquisitions what is the time frame for the acquisitions to close and if they would close before the end of the federal fiscal year. Charlie Landry advised that a couple of the acquisitions actually fell out, and there are some replacement acquisitions in process. Two have been pushed to next fiscal year because they need approval from the Wildlife Conservation Board. Honey

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Bernas stated that RCA has been awarded the grand, but the acquisitions have been delayed.

Charlie added an explanation of grant process. The Department of General Services must review and approve the appraisal. Once the appraisal is approved, the item must be agendized on the Wildlife Conservation Board. The Wildlife Conservation Board only meets quarterly. RCA just missed the agenda for two items. The process takes approximately one year.

M/S/C (MILLER/EDWARDS) for the RCA Executive Committee to:

- 1) Recommend that the RCA Board of Directors –
 - A) Receive and file the Fiscal Year 2015 Second Quarter Financial Report;
 - B) Approve the budget adjustments contained in Exhibit A;
 - C) Authorize the Chairman to direct the Auditor-Controller to make the budget adjustments contained in Exhibit A;and
- 2) Authorize staff to agendize this matter for the March 2, 2015 meeting of the RCA Board of Directors.

(6 Ayes)

11. FUTURE AGENDA ITEMS: *(Committee members are invited to suggest additional items to be brought forward for future discussion.)*

There were no requests for future agenda items.

At this time, the Chairman adjourned the meeting to Closed Session:

12. CLOSED SESSION ITEMS:

12.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to paragraph 1 of Subdivision (d) of Government Code
Section 54956.9

**RIC 100004733 Calvary Chapel of Murrieta v. City of Murrieta; Western
Riverside County Regional Conservation Authority**

There were no announcements from Closed Session.

13. ADJOURNMENT

The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, March 18, 2015, at 12:00 p.m., at the Riverside Centre, 3403 Tenth Street, Suite 320, Third Floor, RCA Conference Room, Riverside, California, 92501.

Prepared by:


Rose Esparza
Administrative Manager

Respectfully submitted:


Honey Bernas
Clerk of the Board